

IN THE HIGH COURT OF ORISSA AT CUTTACK

C.M.P. No.350 of 2022

Rabindranath Senapati

....

Petitioner(s)

Mr. H.N. Mohapatra,
Advocate

-versus-

Ajaya Kumar Senapati & Ors.

....

Opposite Party(s)

CORAM:

JUSTICE BISWANATH RATH

ORDER

06.05.2022

Order No.

01.

1. Considering the submission made by Mr. Mohapatra, learned counsel for the Petitioner, this Court finds, in rejecting an application U/o.39 Rule 3 of C.P.C. the trial court had already directed the plaintiff to take out notice on the defendant-Opposite Parties in both ways. For the settled position of law through this Court, this Court is not inclined to entertain the C.M.P. involving a challenge to the rejection of the application U/o.39 Rule 3 of C.P.C. during pendency of the main application U/o.39 Rule 1 & 2 of C.P.C. This Court, therefore, observes, in the event the Plaintiff-Petitioner has any urgency, nothing prevents the Petitioner to approach the trial court for expediting the hearing of the application U/o.39 Rule 1 & 2 of C.P.C and also for taking out notice through special messenger. It is, at this stage, recording the statement of Mr. Mohapatra, learned counsel for the Petitioner that the notice on the Opposite Parties in the application U/o.39 Rule 1 & 2 of C.P.C.

is yet to be made sufficient, this Court while declining to entertain the C.M.P. permits the Petitioner to approach the trial court for issuing notice to the Opposite Parties therein through Special Messenger at his cost in way to expedite the hearing of the petition U/o.39 Rule 1 & 2 of C.P.C.

2. The C.M.P. stands disposed of accordingly.

(Biswanath Rath)
Judge

Ayuskanta Jena

